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Hearing Date: January 19, 2011 at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

---X
In re

NEW YORK CITY OFF-TRACK BETTING CORPORATION,

Debtor.
---X

Chapter 9

Case No. 09-17121 (MG)

JOINDER OF LOCAL 858, INTERNATIONAL BROTHERHOOD OF TEAMSTERS TO MOTION OF DISTRICT COUNCIL 37, LOCAL 2021 FOR APPOINTMENT OF TRUSTEE PURSUANT TO SECTION 926(a) OF THE BANKRUPTCY CODE TO PURSUE CAUSES OF ACTION TO AVOID AND RECOVER FRAUDULENT TRANSFERS MADE TO NEW YORK RACING ASSOCIATION, YONKERS RACING CORPORATION, EMPIRE RESORTS, INC., MONTICELLO RACEWAY MANAGEMENT, INC., MONTICELLO RACEWAY, FINGER LAKES RACING ASSOCIATION, INC., DELAWARE NORTH COMPANIES, DELAWARE NORTH COMPANIES GAMING & ENTERTAINMENT, INC., VERNON DOWNS AND TIOGA DOWNS

TO THE HONORABLE MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE:

Local 858, International Brotherhood of Teamsters ("Local 858") by and through their undersigned counsel, hereby join in the Motion of District Council 37, Local 2021 for Appointment of Trustee Pursuant to Section 926(a) of the Bankruptcy Code to Pursue Causes of Action to Avoid and Recover Fraudulent Transfers Made to New York Racing Association, Yonkers Racing Corporation, Empire Resorts, Inc., Monticello Raceway Management, Inc., Monticello Raceway, Finger Lakes Racing Association, Inc., Delaware North Companies, Delaware North Companies Gaming & Entertainment, Inc., Vernon Downs and Tioga Dows ("the Trustee Motion").

BACKGROUND – LOCAL 858

1. Local 858 is a labor union. It represents approximately 167 employees of the debtor, New York City Off-Track Betting Corporation ("OTB" or "Debtor"). Until OTB's recent shutdown, most of Local 858's members worked for Debtor as branch managers.

2. Local 858 and OTB operated under a collective bargaining agreement, which expired in December, 2007. That expired collective bargaining agreement governed wages, hours, fringe benefits and working conditions of the Local 858 represented OTB employees.

3. In December 2009, in recognition of the difficult financial circumstances which OTB found itself in, and in response to OTB's request to negotiate, Local 858 entered into negotiations with OTB. In these negotiations, OTB and Local 858 addressed OTB's request for certain relief. On or about December 4, 2009, OTB and Local 858 entered into a Memorandum of Agreement granting OTB certain relief, contingent on OTB achieving an overall reorganization. In particular, under that agreement, Local 858 agreed to a reduction in force of 55 employees, elimination of double-time pay for work performed on Sundays, and broad banding of titles.

4. In September, 2010, Local 858 and OTB again entered into negotiations concerning the terms and conditions of employment of OTB's Local 858 employees. These negotiations resulted in an agreement that was ratified on or about October 6, 2010. That agreement provided for certain work rule changes, and envisioned a reduction in the number of Local 858 employees.

5. Local 858 entered into these agreements in recognition of OTB's difficulties, and in recognition of the need for all stakeholders to make sacrifices to ensure OTB's ultimate survival and prosperity.

6. Former Local 858 – represented employees of OTB stand to lose earned retiree health benefits for the reasons set forth in the Trustee Motion.

OTB'S PETITION

7. On December 22, 2010, District Council 37, Local 2021 ("DC 37") filed the Trustee Motion. [Docket No. 247]

8. Local 858 hereby joins in DC 37's Trustee Motion and urges this Court to overrule the objections to the Trustee Motion.

9. Local 858 reserves its right to amend and supplement this Joinder.

WHEREFORE, Local 858 respectfully requests that this Court grant the relief sought in the Trustee Motion.

Dated: January 18, 2011
New York, New York

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

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